

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Shane Albert Everetts,)	
)	Civil Action No. 2:21-cv-1047
Plaintiff,)	
)	
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
Justin Baptist, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

IT IS HEREBY ORDERED that Plaintiff Shane Albert Everetts (“Plaintiff”) Motion for Leave to Proceed *in forma pauperis* (ECF No. 5) is **GRANTED** to the extent that the case may proceed without the prepayment of the entire \$350.00 filing fee. However, Plaintiff shall pay **\$106.33** as an initial partial filing fee as provided by 28 U.S.C. § 1915(b)(1)(A).¹

IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall forward, within **THIRTY (30) DAYS** from the date of this Order, the initial partial filing fee to the Clerk of Court. A check from a penal institution, a cashier’s check, or a money order should be made payable to “Clerk, U.S. District Court for the Western District of Pennsylvania” and transmitted to: Clerk of Court, U.S. District Court, Western District of Pennsylvania, 700 Grant Street, Suite 3110, Pittsburgh, PA, 15219. Personal checks will not be accepted. The following information shall either be included on the face of the check from the penal institution, cashier’s check, or money order or attached thereto: (i) the full name of the prisoner; (ii) the prisoner’s inmate

¹ Plaintiff had \$3,190.00 worth of deposits into his inmate account for the six-month period ending August 6, 2021. The average monthly deposits was \$531.67, and twenty percent of that is \$106.33. *See* 28 U.S.C. § 1915(b)(1)(A) (explaining the calculation of the initial partial filing fee).

number; and (iii) the case number for this action. Checks or money orders which do not have this information will be returned to the penal institution.

IT IS FURTHER ORDERED that after the payment of the initial partial filing fee, each time a deposit is made to Plaintiff's account, the agency having custody of Plaintiff shall set aside the deposit immediately before any disbursement is made by Plaintiff, and when the amount in Plaintiff's account exceeds \$10.00, the agency shall forward payments to this Court equaling 20% of the preceding month's income credited to his account until the filing fee for this case is paid in full. The prisoner information described in the previous paragraph shall either be included on the face of the check from the penal institution, cashier's check, or money order or attached thereto. The agency shall forward payments to the appropriate courts simultaneously if there are multiple orders.

IT IS FURTHER ORDERED that this Order is binding on the superintendent/warden of any jail or correctional facility where Plaintiff is incarcerated until the filing fee is paid in full in accordance with the provisions of 28 U.S.C. § 1915(b)(1). However, Plaintiff is warned that he is ultimately responsible for payment of the filing fee if his custodian lapses in his/her duty to make payments on his behalf. For this reason, if Plaintiff is transferred to another jail or correctional institution, Plaintiff should ensure that the new institution is informed about this lawsuit and the required monthly payments as set out herein. Plaintiff is advised to retain a copy of this Order for this purpose.

IT IS FURTHER ORDERED that the Clerk of Court shall enclose with this Order an authorization form which Plaintiff shall complete and return to the Court within **TEN (10) DAYS** of entry of this Order. On this form, Plaintiff shall sign either the section that authorizes monthly payments from his inmate account or the section that moves to withdraw this action

without payment of any portion of the filing fee, assuming Plaintiff no longer wishes to proceed with this case.

IT IS FURTHER ORDERED that the Clerk of Court shall mail a copy of this Order to the Inmate Account Officer at Plaintiff's place of confinement if and once Plaintiff has returned his authorization form.

IT IS FURTHER ORDERED that this action may be dismissed for failure to prosecute if Plaintiff fails to return the authorization form within **TEN (10) DAYS** from the date of this Order or if Plaintiff authorizes payments and the initial partial filing fee is not received within **THIRTY (30) DAYS** from the date of this Order.

IT IS FURTHER ORDERED that Plaintiff's Motion to Waive Prepayment of USMS to Serve Summons is denied. However, if this case is served then costs will be advanced by the United States.

AND IT IS FURTHER ORDERED that the Clerk of Court reopen this case and docket the Complaint and any attachments thereto.

DONE AND ORDERED this 16th day of September, 2021.

/s/ Lisa Pupo Lenihan

Lisa Pupo Lenihan
United States Magistrate Judge

Cc: Shane Albert Everetts
029813
Butler County Prison
202 S. Washington Street
Butler, PA 16001

Inmate Account Officer
Butler County Prison